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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/574,725	04/06/2006	Detlef Baasch	ZAHFRI P8-44US	1922
20210 7590 06/18/2008 DAVIS BUJOLD & Daniels, P.L.L.C. 112 PLEASANT STREET CONCORD, NH 03301				
EXAMINER				
PANG, ROGER L				
ART UNIT		PAPER NUMBER		
3681				
MAIL DATE		DELIVERY MODE		
06/18/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

**Application No.**

10/574,725

**Applicant(s)**

BAASCH ET AL.

**Examiner**

Roger L. Pang

**Art Unit**

3681

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 28 May 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-42 is/are pending in the application.
- 4a) Of the above claim(s) 26-33 and 39-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-25, 34-38 and 42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB-08)  
Paper No(s)/Mail Date 4-6-06
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

The following action is in response to the election filed for application 10/574,725 on May 28, 2008.

#### ***Information Disclosure Statement***

The information disclosure statement filed April 6, 2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

A copy of reference C1 on the IDS is not present in the file.

#### ***Election/Restrictions***

Claims 27-33, and 39-41 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 28, 2008.

Please Note: Claim 26 has also been withdrawn, as it appears to be directed toward the embodiment of Fig. 4 (not elected Fig. 3).

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 34-37 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. With regard to claim 34, on the second to last line, the word "preferably" renders the remaining limitations indefinite. The word needs to be removed.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 34-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Seaberg '669. With regard to claim 34, Seaberg teaches a method for controlling and regulating a transmission device having a first planetary gearset 42 having a first shaft 40LEFT connected to a drive input shaft, a second shaft 52LEFT being one of the at least two drive output shafts and a third shaft 48LEFT which is in active communication with a first brake 80; and a second planetary gearset 44 having a fourth shaft 40RIGHT connected to the drive input shaft, a fifth shaft 52RIGHT

being another of the at least two drive output shafts and a sixth shaft 48 which is in active communication with a second brake 82, the third shaft communicates with the first brake and the sixth shaft communicates with the second brake such that a degree of distribution of the drive torque between the at least two drive output shafts varies as a function of transfer capacities of the first and the second brakes, the method comprising the steps of: adjusting the transfer capacities of the first and the second brakes such that one of the first and the second brakes is engaged, to distribute a drive torque of a power source between the two output shafts of the transmission device; and varying the transfer capacity of another of the first and the second brakes between a lower limiting value and an upper limiting value, which corresponds to an engaged condition of the first and second brakes (Cols. 3-4). With regard to claim 35, Seaberg teaches the method, further comprising the steps of: supporting essentially no torque by the first and the second brakes when the transfer capacity of the first and second brakes corresponds to the lower limiting value (Col. 3); and fully supporting torque applied to one of the first and the second brakes when the first and the second brakes are engaged (Cols. 3-4). With regard to claim 36, Seaberg teaches the method, further comprising the steps of: transferring essentially no drive torque to the output shaft of a planetary gearset associated with the brake when the transfer capacity of a brake corresponds to the lower limiting value (Col. 3, if motor 32 is at a point where it is not providing any resistance or drive); and essentially completely transferring the drive torque from a power source applied to the transmission device to the output shaft of the other planetary gearset associated with the brake which is engaged at the same time (Cols. 3-4). With regard to claim 37, Seaberg teaches the method, further comprising the step of varying the

degree of distribution of the drive torque between the two output shafts as a function of the transfer capacity of the brake whose transfer capacity is being changed (Col. 4).

Claims 22-25 are rejected under 35 U.S.C. 102(c) as being anticipated by Perkins '530. With regard to claim 22, Perkins teaches a transmission device for distributing drive torque to at least two drive output shafts, the transmission device comprising: a first planetary gearset having a first shaft 218 connected to a drive input shaft 235LEFT, a second shaft 234 being one of the at least two drive output shafts, and a third shaft 238 which is in active communication with a first brake 226; and a second planetary gearset having a fourth shaft 318 connected to the drive input shaft 235RIGHT, a fifth shaft 334 being another of the at least two drive output shafts and a sixth shaft 338 which is in active communication with a second brake 326, the third shaft communicates with the first brake and the sixth shaft communicating with the second brake so that a degree of distribution of the drive torque, between the at least two drive output shafts varies as a function of transfer capacities of the first and the second brakes. With regard to claim 22, Perkins teaches the device, wherein the first shaft 235LEFT of the first planetary gearset and the fourth shaft 235RIGHT of the second planetary gearset are annular gears. With regard to claim 24, Perkins teaches the device, wherein the second shaft 228 of the first planetary gearset and the fifth shaft 328 of the second planetary gearset are planetary carriers. With regard to claim 25, Perkins teaches the device, wherein the third shaft 238 of the first planetary gearset and the sixth shaft 338 of the second planetary gearset are sun gears.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 38 and 42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Seaberg '669 in view of Sawase '588. With regard to claim 38, Seaberg teaches a drive train of a vehicle comprising at least one transmission device having a first planetary gearset 42 having a first shaft 40LEFT connected to a drive input shaft, a second shaft 52LEFT being one of the at least two drive output shafts and a third shaft 48LEFT which is in active communication with a first brake 80; and a second planetary gearset 44 having a fourth shaft 40RIGHT connected to the drive input shaft, a fifth shaft 52RIGHT being another of the at least two drive output shafts and a sixth shaft 48 which is in active communication with a second brake 82, the third shaft communicates with the first brake and the sixth shaft communicates with the second brake such that a degree of distribution of the drive torque between the at least two drive output shafts varies as a function of transfer capacities of the first and the second brakes; said transmission in a power path of a vehicle axle to distribute a fraction of the drive torque delivered to the vehicle axle in a transverse direction of the vehicle between two drive wheels of the vehicle axle or, as necessary, and in a manner that depends on the operating situation. Seaberg lacks the specific teaching of said transmission being arranged in a power path between a power source and two driven vehicle axles. Sawase teaches a drive train of a vehicle with at least two driven vehicle axles (Fig. 5) and at least one transmission device arranged in a power path between a power

source and the vehicle axles (Fig. 5) to distribute drive torque from the power source between the vehicle axles, as necessary, and in a manner that depends on at least one operating situation, and in a power path of a vehicle axle to distribute a fraction of the drive torque delivered to the vehicle axle in a transverse direction of the vehicle between two drive wheels of the vehicle axle (Fig. 2) or, as necessary, and in a manner that depends on the operating situation. It would have been obvious to one of ordinary skill at the time of the invention to modify Seaberg to employ the different transmission locations of Sawase (Figs. 2 and 5) in order to provide more versatility for said transmission. With regard to claim 42, Sawase teaches the drive train, wherein for distribution of the fraction of the drive torque delivered to one of the vehicle axles in the transverse direction of the vehicle between two drive wheels on the vehicle axle, as necessary, and in a manner which depends upon the driving situation, the power path of the axle incorporates an open differential 7 (Fig. 5).

### ***Conclusion***

Tokushima, Zaunberger and Hiersig have been cited to show similar transmissions.

### **FACSIMILE TRANSMISSION**

Submission of your response by facsimile transmission is encouraged. The central facsimile number is (571) 273-8300. Recognizing the fact that reducing cycle time in the processing and examination of patent applications will effectively increase a patent's term, it is to your benefit to submit responses by facsimile transmission whenever permissible. Such submission will place the response directly in our examining group's hands and will eliminate Post Office processing and delivery time as well as the PTO's mail room processing and delivery time. For a complete list of correspondence not permitted by facsimile transmission, see MPEP 502.01. In general,



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most responses and/or amendments not requiring a fee, as well as those requiring a fee but charging such fee to a deposit account, can be submitted by facsimile transmission. Responses requiring a fee which applicant is paying by check should not be submitting by facsimile transmission separately from the check.

Responses submitted by facsimile transmission should include a Certificate of Transmission (MPEP 512). The following is an example of the format the certification might take:

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Typed or printed name of person signing this certificate:

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(Signature)

If your response is submitted by facsimile transmission, you are hereby reminded that the original should be retained as evidence of authenticity (37 CFR 1.4 and MPEP 502.02). Please do not separately mail the original or another copy unless required by the Patent and Trademark Office. Submission of the original response or a follow-up copy of the response after your response has been transmitted by facsimile will only cause further unnecessary delays in the

processing of your application; duplicate responses where fees are charged to a deposit account may result in those fees being charged twice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Roger L. Pang whose telephone number is 571-272-7096. The examiner can normally be reached on 5:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Marmor can be reached on 571-272-7095. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Roger L Pang/  
Primary Examiner, Art Unit 3681

Roger L Pang  
Primary Examiner  
Art Unit 3681

June 13, 2008